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The Principles of Shariah-Compliant Negotiation (SCN) from the Islamic Organization Perspective

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Abstract: The major symbol of the twenty-first century is the emergence of the Islamic system of management which has remarkable increase among Islamic organizations. A number of organizations have adopted the Islamic system of management to manage their organizations. This was a result of the need to align with the Shari'ah system. However those Islamic organizations negotiate and deal with each other and with others in order to satisfy their interest and meet their objectives. It is therefore important to know the Shariah principles which they execute in their negotiation with their various customers. Therefore the purpose of this study is to bring out the Shariah-complaint negotiation principles from the Islamic organization point of view. A series of interviews were conducted with four expertise groups to drive data of this study. A set of thematic data analysis was directed by the assistance of the NVIVO 8 software to develop the principles themes and sub-themes. Finding identified that Islam as a complete way of life has set several principles, Muslims must observe and in their negotiation practices. Thus, the Islamic organization must conduct their negotiations within the Shariah teachings to fulfill their objectives and get the spiritual satisfaction.

Key words: Negotiation, principles, shariah-complaint, islamic organization, muslims

INTRODUCTION

Negotiation can be considered as the oldest ways of human activities that today we use almost daily to solve problems or disputes among human beings peacefully (Yousefvand, 2012). Negotiations have been in the focus of scholars from different fields and orientations. From the last several decades, scholars have devoted a great deal of attention to negotiation processes (Nikolaev, 2001). However, many studies arose in the field of negotiations and each researcher tried to investigate the phenomenon from his or her point of view. Therefore, this study studied the negotiation from the Islamic perspective by exploring the Islamic principles of the Shariah-compliant negotiation. Negotiation from an Islamic perspective also like the other perspective has a significant importance because it is considered as a constructive tool (Al-Zuhaili, 2003). It considered as a process of variation of decisive and serious dialogue that takes place between Muslims (each other) or others to establish good relationships, to exchange products and services, to determine right and duties and to end conflicts between them, following the Islamic values and principles of it (Zuhaili, 2003).

Muslims believe that Islam is not only a religion; it is a complete way of life, Islam taught Muslims every life's

aspect. Allah (SWT) shows His Prophet (PBUH) how to negotiate with mankind if he or they needed, Ibin Kathir explained that Allah (SWT) by saying; "and argue with them in a way that is best" (Surat An-Nahl, 16; 125), commands his Prophet (PBUH) that if any of them (mankind) needed to debate and controversy, do it in a gentle way and with a good speech interpretation of the meaning.

Moreover in the negotiations context Allah (SWT) ordered Moses and Aaron peace be upon them while he sent them to Pharaoh to speak to him with gentle speech:

"Go, both of you, to Fir'aun (Pharaoh), verily, he has transgressed (all bounds in disbelief and disobedience and behaved as an arrogant and as a tyrant) and speak to him mildly, perhaps he may accept admonition or fear Allah" (Surat Ta-Ha, 20; 43 and 44)

From these verses it can be observed that Islam has taught Muslims how to negotiate and communicate, also it has addressed some principles and practices in negotiation but is this principle and practices are clearly addressed by Muslims, now-a-days?

However, the dearth of literature on negotiation from the Islamic point of view can be seen to be has caused

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lack of attention which is assumed lead to lack of understanding of the issue among the Islamic organization. For that reason, this study undertakes to present the underpinning of Shariah-compliant negotiation based on the Islamic legal and social system (Shariah). The concept of the Shariah-compliant negotiation principles was suggested to be consistent with the Islamic organizations. Indeed, the values and principles that have been central to Islam since the time of Prophet Mohammad (PBUH) 14 centuries ago may serve as a foundation of the Shariah-compliant negotiation.

The concept of the Islamic principles has been the basis of the Islam since its advent in the 7th century (Mohammed, 2007). The Prophet Mohammad (PBUH) demonstrated the principles of negotiation embedded in the holy Quran through his practices (Sunnah) to establish a social system that was just and harmonious. These principles permeate every aspect of a Muslim's life. Nonetheless, a numerous part of Islamic literature in this field is either theological oriented or superficial and inadequate in its assessment of Shariah-compliant negotiation and remains to date, fragmented and spread over a variety of sources. These current literatures on Shariah-compliant negotiation fail to provide a systematic model or framework of a negotiation from the Islamic perspective. Thus, this study seeks to fill this gap by bringing out the principles of the Shariah-compliant negotiation based on the view of the Islamic organization that have a significant contribution toward developing a now model of negotiation.

MATERIALS AND METHODS

Research design: According to Creswell research design is a process of steps used to conduct, analyze and report information in order to increase the understanding of the research issue. There are many types of research design and each one has its benefits. Therefore, using any of these methods is depends on the study problems and objectives. The aim of this study is to investigate on the notion of Shariah-compliant negotiation principles and provides a deeper understanding of it from the Islamic organizations view point. That needs a holistic analysis therefore qualitative method through in-depth interview approach was adopted.

In-depth interviews are useful appropriate when the researcher wants detailed information about what an interviewee thinks and feels about some phenomenon in depth (Boyce and Neale, 2006; Baxter and Babbie, 2004). In addition, in conducting in-depth interview the researcher is trying to learn about the phenomenon that cannot be directly observed, or when not much has been

researched (Keyton, 2015). Therefore, this study used in-depth interviews as the primary approach to understand the interviewees' experiences and thoughts of the Shariah-compliant negotiation principles.

The sampling design was based on the purposive sampling technique to select the involved interviewees. Purposive sampling is based on the purpose of the study that specific person or content that will meet specific criteria on what the researcher wants to gain in-depth understanding or information on it (Keyton, 2015; Treadwell, 2014). In order to ascertain that twenty informants from four expert groups (Muftis, Academician, Practitioners and banks Shariah Management) formed the total population of this study. The collected data were codified and categorized in themes using NVIVO 8 software. Thematic data analysis technique used to analyze the interviews data. In general, the interviewees of this study were asked about their viewpoint, understanding and their experiences and thoughts about the principles of Shariah-compliant negotiation.

RESULTS AND DISCUSSION

The primary data analyzed thematically, were formed by interpretations, perception as well as meanings of the informants' then it were sorted under different arrangements and themes and that according to Yin (2011) need altering and re-altering of the arrangements and the themes until achieving satisfactory result. Figure 1 proved the main themes and sub-themes of the related factors for the Islamic negotiation concept which answered the objectives of this study.

The principles of Shariah-Compliant Negotiation (SCN): The data analysis of this study defined general principles on which the Shariah-complaint negotiations should be based. Based on the clear claim of the informants, Muslims or Islamic organization have to realize those principles and obligate themselves to implement them to accomplish the best results of their negotiations here and hereafter. Hence, those fundamental principles of the Shariah-complaint negotiation are as stated in Fig. 1.

The Quran and Sunnah compliant principle: It has been perceived that the informants of this research argued that the Quran and Sunnah Compliant is the main principle of the Shariah-complaint negotiation. Informants A12 and SD02 pointed that the main Shariah-complaint negotiation principle which the conventional one doesn't have it, is the Shariah compliant. You have to make sure the process; the object and the ultimate settlement are Shariah



Fig. 1: The principles of Shariah-Compliant Negotiation (SCN)

complaint. In other word, the first principle is that if something is not allowed by Shariah law, it cannot be negotiated. So, any act which is haram or something prohibited or not Shariah compliant, it cannot be negotiated from the Islam perspective.

Correspondingly, informant A07 discussed the importance of this principle because the whole process is the permissibly or possibility of the negotiation, he said:

“I mean by possibility, islamiely it has value and Shariah agree with this kind of negotiation. If the Shariah does not agree with the negotiation content the negotiation does not possible at that moment. Here I mean the legality and the content of the negotiation should be permissible” (Informant A07)

The Qur’an and Sunnah compliant principle is the main pillar of conducting negotiations in Islam. That is because according to Informants M01, A05 and A11 the Shariah-complaint negotiation is a type of negotiation that to be agreed with Shariah and within the teaching of Islam. It must be in line with the Islamic principle and based on the Qur’an and Sunnah.

Consistently, informant P03 discussed his experience as a practitioner and argued that in the Islamic institutions the negotiations have to be based on the Shariah law and the teaching of Islamic. So, they cannot offer something not Shariah compliant product. To elaborate that he justified his claim by addressing some examples from his experience, he said:

“For example, when I was working in an Islamic insurance company, our competitors the convention insurances when they go to their client-big clients- to get the insurance policy they send their female officer wearing an attractive address to close the policy and sometimes they go to certain club or go for drinks. This something very normal for them but we cannot do the same, because as a Shariah complaint company we cannot do that, It is against our principles” (Informant P03)

From a different anger, informants SD14 and A5 went beyond that in their discussion about this principle. They claim that Qur’an and Sunnah principle is not only the main pillar of the Shariah-complaint negotiations, it is the main objective or goal for any Islamic organization to obtain. They said:

“The Shariah-complaint negotiation is a type of negotiation that is designed to achieve a goal that is called Shariah complaint” (Informant A05)

“Whatever thing you discuss, you over or accept must be agreed and within the Islamic principles. That is because, when we reach this principles, we reach Shariah compliance and that is the goal of the Islamic Institution”. (Informant SD14)

Nevertheless, the data of this research also shows that this essential principle has another two Sub-principles as presented in Fig. 2.

Willingness to negotiate: This sub-principle of negotiation from the Islamic approach is to recognize the other’s rights and freedom of choice to negotiate. People have a different school of thought and so any negotiated issue can be observed differently from right and wrong angles. Therefore, informants M1, M19 and A11 emphasized on this sub-principle that is because from their stand, negotiation will never be successful if the negotiated parties had been forced to negotiate. Thus, the willingness to negotiate principle has a vital contribution to the successful of the negotiation.

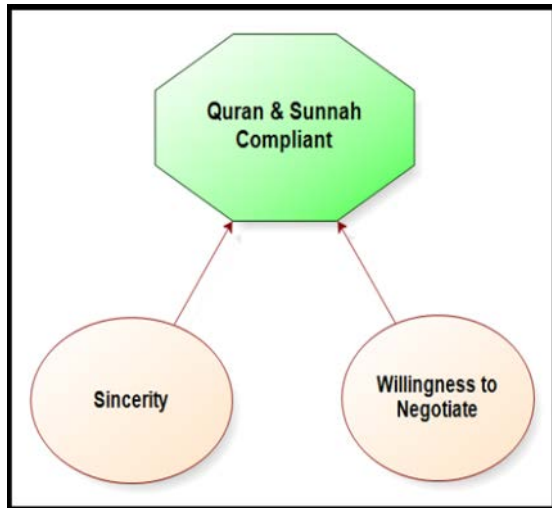


Fig. 2: The Quran and Sunnah compliant principle

From this regard, informant A12 justified this claim from the Qur’anic verse from Surah An-Nisa. When Allah (SWT) says:

“If you fear a breach between them twain (the man and his wife), appoint (two) arbitrators, one from his family and the other from her's; if they both wish for peace, Allah will cause their reconciliation. Indeed Allah is Ever All Knower, Well Acquainted with all things” (Surah: An-Nisa 4:35)

However, the negotiation from the Islamic approach confirms that every person or organization is responsible for their own conduct and deeds in negotiation if they chose to negotiate rightly, Allah (SWT) will grant them success and if they chose to conduct it wrongly, they will harm their own cause. For that reason, the Islamic approach of negotiation maintains that no person is allowed to force others into holding a negotiation. Indeed, the Shariah-complaint negotiation is a negotiation between the willing parties within the teaching of Islam (Informant A13).

Sincerity: The other important sub-principle for the Qur'an and Sunnah principle is sincerity (Ikhlas). In Islam, sincerity is vital in the lives of the Muslims because their deeds are judged by the amount of its sincerity and the only one who is aware of people's intentions and sincerity is Allah (SWT).

Sincerity means to have the intentions in performing deeds whether in speeches or actions done only for the sake of Allah (SWT) pleasure and not expecting praise from other than Him. To be sincere is to avoid all wrong

intentions that spoil people thoughts and actions. That what Allah (SWT) has commanded His Messenger (PBUH) when He says:

“Say (O Muhammad SAW): “Verily, my Salât (prayer), my sacrifice, my living and my dying are for Allah, the Lord of the 'Alamin (mankind, jinns and all that exists)”. (Surah Al-Anaam 6:162)

Therefore, in the Shariah-complaint negotiation context informant M01 and M19 claimed that “The foundation of the Shariah-complaint negotiation is the sincerity to negotiate in the sake of Allah”. He continued arguing that from the Sunnah the all negotiations which take place between the Prophet Mohammad (PBUH) and Quraish (Treaty of Al-Hudaybiya) were for the sake of Allah (SWT). So, the foundation of the negotiation of The Prophet (PBUH) is the sincerity to be for the sake of Allah (SWT). Therefore, He (PBUH) succeeds in His negotiations. Similarly, informant A10 and P17 discussed the importance of practicing this principle in the outcome of negotiations, they said respectively:

“The other important principle I try to put in practice is sincerity (Ikhlas) good intention is very important. Usually most of the people who conduct negotiation have a prior agenda and usually the outcome will be not good. But if there is sincerity, one thing is we get the blessing of Allah (SWT) and at the end of the day the negotiation will succeed. Finally, our goal is to make it in the sake of Allah (SWT) (Informant A10)

“We must have a clear understanding of the negotiating mandate because if uncertainty exists, the negotiation process will be ineffective” (Informant P17)

Explaining further, Informant A10 stated that sincerity in the Shariah-complaint negotiation means; “for you to have a successful negotiation you must come with a clean mind. You should be sincere to negotiate. So, if you are sincere and honest with the willingness of Allah (SWT) you will succeed”. Stressing this more, Informant A05 pointed out that “the Shariah-complaint negotiation should always start with a good intention; we shouldn't have an exemption to another person”. That means according to Informant A09, in the Shariah-complaint negotiation, “You must be sincere when you are experiencing your view”.

In view of this therefore, Informant A07 disclosed that “Sincerity here means; I come to negotiate and I am

not looking for a personal interest and I do want to stick the sincerity just for the sake of Allah (SWT) alone because it may be purely for Dunyat issue were just negotiating Dunyat Dunyat. So, sincerity is I am sincere that me and you to reach a conclusion, not I am coming to convince you that I am right and you are wrong. I just come with an empty mind". Indeed, the Shariah-complaint negotiation is mainly based on the principle of sincerity and good intention to ensure that the negotiate outcome will be effectively.

Justice: The evidence from this study's interviews showed that all the Informants were of the view that justice is the second main principle of negotiation from the Islamic perspective. As it has been discussed in the chapter 3, the concept of justice in the Islamic approach has several meninges but all of them are about placing things in their rightful place. Therefore, Informant A16 disclosed that:

"In the Shariah-complaint negotiation justice is something which is due to me, my right. But in the process of searching of my right I may not do it for another concern. Thus, in order of searching for your justice, you have to do justice to others" (Informant A16)

He justified his claim that when we do negotiation in Islam we have to do it with justice because Allah (SWT) has ordered us to do so, in Surah An-Nahl He says:

"Verily, Allah enjoins Al-Adl (i.e. justice and worshipping none but Allah Alone-Islamic Monotheism) and Al-Ihsan [i.e. to be patient in performing your duties to Allah, totally for Allah's sake and in accordance with the Sunnah (legal ways) of the Prophet SAW in a perfect manner] and giving (help) to kith and kin (i.e. all that Allah has ordered you to give them e.g., wealth, visiting, looking after them, or any other kind of help, etc.): and forbids Al-Fahsha' (i.e. all evil deeds, e.g. illegal sexual acts, disobedience of parents, polytheism, to tell lies, to give false witness, to kill a life without right, etc.) and Al-Munkar (i.e. all that is prohibited by Islamic law: polytheism of every kind, disbelief and every kind of evil deeds, etc.) and Al-Baghy (i.e. all kinds of oppression), He admonishes you, that you may take heed" (Surah An-Nahl 16:90)

And in another verse from Surah Al-Maeda, Allah (SWT) says:

"O you who believe! Stand out firmly for Allah and be just witnesses and let not the enmity and hatred of others make you avoid justice. Be just: that is nearer to piety and fear Allah. Verily, Allah is Well-acquainted with what you do" (Surah Al-Maeda 5:08)

From the above Qur'anic verses, it is clear that Allah (SWT) in His holly Book considers justice to be a supreme virtue and a basic objective of Islam. And so, Informant A07 argued that "negotiation when it comes to my mind is all about justice". In the same view, another Informant which is Informant A10 disclosed that the importance of practicing this principle in his organization negotiations is to avoid extremes. He said:

"Justice is a very vital principle in negotiation and Islam really emphasis so much on it. Therefore, I try as much as possible to exercise justice; it is defined as trying to avoid extremes, trying to be moderate and trying to put things in the right places" (Informant A10)

Informant A10 justified his claim that Islam order us to do justice all the time and that is very clear stated in the Holly Qur'an when Allah (SWT) in Surah Al-Hujurat says:

"And if two parties or groups among the believers fall to fighting, then make peace between them both but if one of them rebels against the other, then fight you (all) against the one that which rebels till it complies with the Command of Allah; then if it complies, then make reconciliation between them justly and be equitable. Verily! Allah loves those who are equitable" (Al-Hujraat, 49:09)

Subsequently, Informants SD02, SD18 and A05 directed that the concept of justice in the Shariah-complaint negotiation means; "Don't misused someone right or interest" and "to give the equal right to all even to your enemies". That is because the injustice or oppression is forbidden in Islam, as clearly stated in the authentic Hadith of the Prophet Muhammad (PBUH), when Abu Dharr reported that:

"Allah's Messenger (may peace be upon him) as saying that Allah, the Exalted and Glorious, said: My servants, I have made oppression unlawful for Me and unlawful for you, so do not commit oppression against one another" (Imam Muslim)

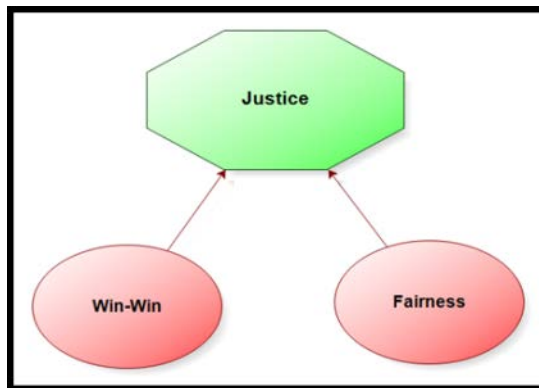


Fig. 3: Justice principle of the shariah-complaint negotiation

In this thought, the analysis of this study indicated that the informants discriminate between the concept of justice in negotiation and the other two sub-principles (Fairness and Win-Win) as showed in Fig. 3.

Fairness: Some of this study information's identified that fairness here means negotiation should not involve transgression against parties' rights. It has to rely on this principle in all dealings (Informant A11). However, Informant SD02 distinguished between the principle of justice and fairness, when disclosed that; "Justice is to give the equal right but fairness is something inner it means you would like to give someone but if to be in his place you would like to receive the same". In other word, fairness is showing no bias towards some people or individuals. But justice, in broader terms, is giving a person his due.

Thus, in the Shariah-complaint negotiations, the negotiated parties should get fair treatment in all situations because in Islam people are all equals and deserve fairness. In line with this regard, informants A08, P17 and SD15 stressed that, fairness is a very important principle in the Shariah-complaint negotiation. They believe that negotiations cannot be success if it is not fair to negotiated parties.

Therefore, Informant A13 stated that "Islam emphasizes in the principle of "ADIL" Fairness and the Messenger of Allah (PBUH) always makes sure to be fair to both of them, when he did negotiate between the tribes". That is because according to Informant A06 practicing this principle helps to avoid oppression and injustice in closing any deal. He justified his claim that "we can clearly see that from some of the prophets like Daoud (PBUH) and Sulaiman (PBUH)".

Win-win: There is no doubt that when people negotiate, their goal is to win or to achieve the negotiated outcomes that they can call fair (Welsh, 2003). Particularly, the negotiations from the Islamic perspective do have goals to achieve but at the end of the negotiation both or all negotiated parties win. Therefore, Informant SD04 when he was identifying the Shariah-complaint negotiation concept, he said; "It means a platform to put the parties' interests without a major compromising but at the end of the day we have a win-win situation". This was equally buttressed by Informants SD14 and SD18 of when they evidentially pointed that conducting negotiation from the Islamic point of view is all about win-win outcomes. That is because the Shariah-complaint negotiation relays on the principle of justice and fairness in all dealings.

To sum up, the above interpretations and analysis show that the principle of justice is the core of the Shariah-complaint negotiation. That is because Islamic requires its believers not to take other people's rights, even to from another faith. If they do so, it is a sin and contrary to the teachings of Islam as in Allah's commandment (Surah An-Nahl 16:90). Thus, this principle was reflected through the firmness shown by the Prophet Muhammad (PBUH) and his companions who obeyed every commandment from Allah throughout their lives.

Credibility: The third principle which has emerged from this research analysis is Credibility. The concept of this principle refers to dedication of truth by words and deeds, which is a good character consistent with nature (Ghanim and Fatima, 2009). The principle is very essential for conducting a successful negotiation even for all human dealings. Therefore, credibility in this study context is consisting of other three sub-principles as illustrated in Fig. 4.

Honesty (Amanah): Amanah is an Arabic word for honesty which literally means trust, reliability, trustworthiness, loyalty, faithfulness, integrity. This first sub-principle of credibility was emerged from a number of this research informant's views. Informants A13, M19 and P17 were assertive that in the Shariah-complaint negotiation you must emphasize on the principle of honesty and integrity. That is because honesty is a great trait in Islam; it is one of the foundations of the religion. Thus, Islam considered this principle as the moral strength of the believers. That what was declares in Surat Al-Mumenoon and Surat Al-Maarij:

"Those who are faithfully true to their Amanah (all the duties which Allah has ordained, honesty, moral responsibility and trusts etc.) and to their covenants..." (Surat Al-Mumenoon 23:8)

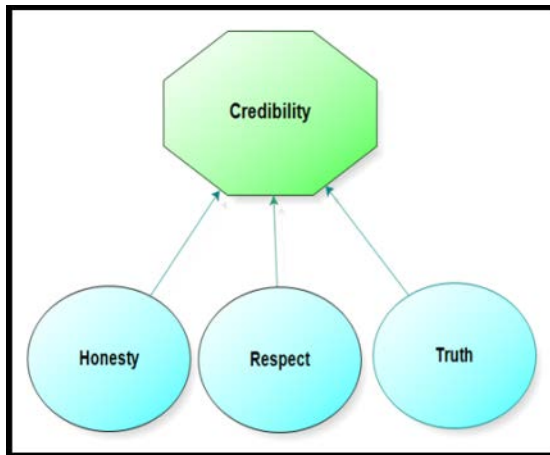


Fig. 4: Credibility sub-principles

“And those who keep their trusts and covenants” (Surat Al-Maarij 70:32)

Generally, if honesty is one of the foundations of Islam, it is an essential principle of negotiating islamically. Therefore, Informant A16 specified that in the Shariah-complaint negotiation “the concept of Amanah (honesty) must be there. That is because; the Amanah is the bond between the involved parties. So, I must ensure for you that what I communicate with you is true”. Similarly, Informant SD14 emphasized on this concept, he said; “when you negotiate you must be Honest, in explaining and in receiving your counterpart arguments”. In other word, honesty here means telling the truth in all cases and under all conditions. Additionally, the principle of honesty from the Islamic viewpoint also means fulfilling the promise, whether written or given orally, in text and spirit. This concept was argued by Informants P3 and SD18 when they were discussing their experience in their organizations.

“From my experience, I believe that, first of all when you negotiate with your client, don’t lie. I have experience previously when I was working in another organization, when you want to sell the product you tempt to tell something that your customers want to hear.... So, telling something like over promise or not the truth things. I think those are very important (to take it on your consideration) when you negotiate with your clients” (Informant P3)

“The bottom line for the customer is the pricing. The pricing must be not over promise. So, you should negotiate with a very ethical way” (Informant P3)

Islam prompts Muslims to adhere to their obligations, contracts and order them to be honest in all time. That what is declares clearly in the following verses, Allah Says:

“O you who believe! Fulfill (your) obligations”
(Surat Al-Maeda 5:1)

“Verily! Allah commands that you should render back the trusts to those, to whom they are due; and that when you judge between men, you judge with justice. Verily, how excellent is the teaching which He (Allah) gives you! Truly, Allah is Ever All Hearer, All Seer” (Surat Al-Mumenoon 4:58)

Respect: The second sub-principle of credibility is Respect. It is commonly understood in negotiations in two means. One focuses on an individual’s internal feelings and the other upon his external actions (Cohen, 2001). Respect is a significant component of successful negotiation it is something we must negotiate for. Therefore, this sub-principle clearly appeared on the focus of informants of this study. Informant A5 emphasized so much in this sub-principle he said; “Negotiation is always about a question of take and give. So, we cannot insist on our own interest. Therefore, the Shariah-complaint negotiation is a negotiation based on the ethics, in this case we respect each other and we try to convey the message in a way that is not provoking the other person...” He continued his argument by sharing his experience, when he said; “In fact, my own practices are to listen and then to talk, I gave the other person the right to speak. Also, I respect him. And I will not try to impose my opinion”.

In line with standpoint, informants A9 and A13 expressly pointed that respect is the other important principle in the Shariah-complaint negotiation. Whoever the other party is or come from, you have to respect him. Also, you must respect the other rights. That is because, in Islam, respect is one of the pillar stones of the ethics. Respect should be given to everything, because everything has been created for a purpose. Additionally, according to Yassin and Dahalan (2012) disrespecting others’ rights can brings conflicts within humankind, thus it creates huge problems to the negotiated parties because it is a trust that cannot be betrayed. Therefore, Informants A12, P17 and M19 focused on the importance of this sub-principle forming the Shariah-complaint negotiation.

Truth: Truth is the last sub-principle that related to the credibility in the Shariah-complaint negotiation that developed from this study data analysis. Truth is something which everyone tries to find out. In negotiations truth is very vital because in order to make decisions, true information is required. Also, knowing the truth about the negotiation issues forms the right view of the negotiated parties. For that reason, Informant M1 certified that without the truth, we cannot reach a common ground to negotiate so the truth between the parties is very important.

In Islam, truth is far more than having an honest tongue. It is the conformity of the external with the internal, the deed with the intention, the speech with belief and the practice with the preaching. Islam orders His believers to be among those are true in all time, in Surat At-Taqla Allah (SW) says;

“O you who believe! Be afraid of Allah and be with those who are true (in words and deeds)”
(Surat At-Taqla 9:109)

From the Sunnah, Abdullah bin Mas'ud reported that Allah's Messenger (PBUH) said:

“Telling of truth is a virtue and virtue leads to Paradise and the servant who endeavors to tell the truth is recorded as truthful and lie is obscenity and obscenity leads to Hell-Fire and the servant who endeavors to tell a lie is recorded as a liar” (Imam Muslim)

In this authentic Hadith the Prophet Muhammad (PBUH) is confirming that it is obligatory for Muslim to tell the truth, because truth leads to virtue and virtue leads to Paradise and as a reward the Muslim who practice the truth is eventually recorded as truthful with Allah. On the other hand, He (PBUH) warned Muslims to be aware of telling a lie because it leads to obscenity and obscenity leads to Hell-Fire and the person who keeps telling lies is recorded as a liar with Allah. Because of the above evidences, Informant P3 emphasized so much in this sub-principle of the Shariah-complaint negotiation. When he discussed his experiences in his organization, he said:

“From my experience, I believe that, first of all when you negotiate with your client, don't lie. And when you want to sell your product don't tell something that your customers want to hear ... I think it is something like over promise or not the truth things. I think those are very important (to take it on your consideration) when you negotiate with your clients”
(Informant P3)

In line with is view, Informant SD4 pointed that there are some ethics and values that should be embedded in a negotiations like; lying, over promise and deceive or cheat. Those undoubtedly are cause by the lack of truth. For that reason, Allah's Messenger (PBUH) said:

“Both parties in a business transaction...if they speak the truth and make everything clear they will be blessed in their transaction; but if they tell a lie and conceal anything the blessing on their transaction will be blotted out.” reported by Hakim bin Hazim (Imam Muslim)

Indeed, if truth in Islam is the key for all doors of goodness that may lead to paradise. It is also a key for any successful negotiations.

Flexibility: Flexibility is the fourth principle of the Shariah-complaint negotiation that emerged from this research data analysis. It means in the context of negotiations the ability of being adaptable and open to alteration or change without compromising your core principles. That what was notified by Informant SD2 when he said:

“Flexibility in negotiation means; you shouldn't be too strict to extend being frozen negotiator. For example; in Sulh Hdaybiya, the prophet Mohammad (PBUH) was so flexible; which mean in negotiations, we shouldn't focus on the marginal issues, the focus should be on the core issues. You can compromise on the marginal not on the core issues and you cannot judge people based in your personal conviction” (Informant SD2)

Also, Informant A9 noted that flexibility in negotiation means you must be able to open up your mind in term of acceptability now ideas. Because if you have a very close mind, then what is the purpose of having negotiation. However, the Islamic literature emphasis so much on this principle as it was discussed in the third chapter of this study. In line with that view and through thematic analysis the Informants of this study identified sub-principles indicate the principle of flexibility as illustrated in Fig. 5.

Tolerance: Tolerance is the first sub-principle of the principle of flexibility in negotiation from the Islamic approach. Its concept means “respect, acceptance and appreciation of the rich diversity of the world's cultures, forms of expression and ways of being human”. Literally, the word “tolerance” means “to bear”. In Arabic it is

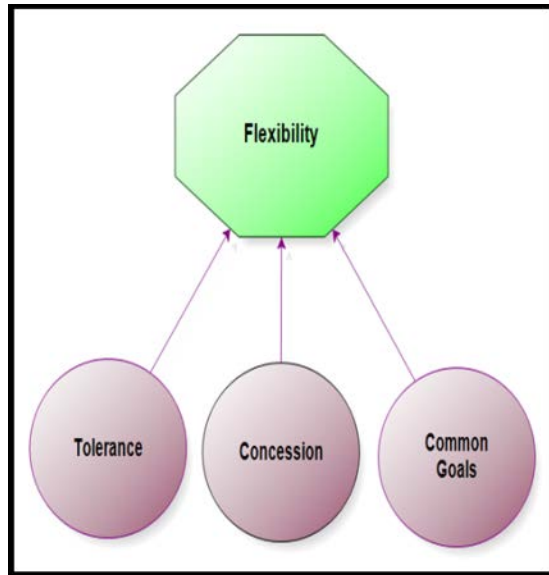


Fig. 5: Flexibility sub-principle

called “Tasamuh”. Also, there are other words that give similar meanings, such as “Hilm” (forbearance) or “Afu” (pardon, forgiveness) or “Safh” (overlooking, disregarding). Thus, it means to hold something acceptable or bearable (Kamal, 2011).

In Islam, Informants M19 and SD2 argued that the holy Qur’an and the Sunnah has many evidences that encourages and orders Muslims to practice tolerance between each other and with all humankind in any aspect of life. That is very obvious in inviting people and arguing with them to believe in Islam, informant SD2 support his claim by the following verses:

“And argue not with the people of the Scripture (Jews and Christians), unless it be in (a way) that is better (with good words and in good manner, inviting them to Islamic Monotheism with His Verses), except with such of them as do wrong and say (to them): “We believe in that which has been revealed to us and revealed to you; our Allah (God) and your Allah (God) is One (i.e. Allah) and to Him we have submitted (as Muslims)” (Surat Al-Ankaboot, 29:46)

And In Surat Taha Allah (SWT) says:

“And speak to him mildly, perhaps he may accept admonition or fear Allah” (Surat Taha 20:44)

In the same context, Informant M19 justified his claim from the Sunnah, when he pointed the Hadith of the Prophet Muhammad (PBUH); Narrated Jabir bin

‘Abdullah: Allah’s Apostle (PBUH) said, “May Allah’s mercy be on him who is lenient in his buying, selling and in demanding back his money”. Therefore and based on the above confirmations, Informant M20 emphasized on this sub-principle in order to negotiate islamically, when he said; “we should tolerate in our negotiations. No matter the dispute is, we should tolerate. Especially, the dispute subject is not against the Shariah”. There is no doubt that Islam teaches tolerance at all levels because the best conduct in Islam is to treat people with dignity, equally and justice.

Thus, according to Kamal (2011) tolerance from the Islamic perspective comes from the recognition of the dignity of the human, the basic equality of all human beings, universal human rights and fundamental freedom of thought, conscience and belief.

Concession: The evidences from this study show that concession is the second sub-principle that indicates the principle of flexibility in negotiations. As it being discussed before, many people comprehend that negotiations is a process of give-and-take. Therefore, in order to get what they want, negotiated parties have to be willing to make concessions. However, informant A17 called this Sub-principle by the negotiations sacrifice. He justified his claim by giving an example from his experience, he said; “I don’t like chewing gum even it is Halal but I don’t like it. Therefore, i told my wife, then Alhamdulillah I never saw it in my house. In return, I don’t like the fun too but my wife like it and cannot live without it. I let it go, so this is a sacrifice”. Thus, concession from his experience is nothing more than yielding something or getting something in return. So, it is often necessary in negotiation.

Similarly, Informant SD2 highlighted the purpose of making concessions in negotiations. He pointed that making concessions in negotiation means “you will lose what we call some rights; explicit rights”. The purpose of that is in negotiation, “you are negotiating to get at least 70% of you right”. Additionally, he proved his argument when he said; “In Shariah, there is something called the calculation between harm and benefits. So, either you lose completely all your rights and your case will be pending for 20 years or you negotiate and get at least two quarters or three quarters of your rights”. Indeed, propose making concessions in negotiation from his experience is; we negotiate to reach an agreement of a common ground, even though internally we know that you are wrong and you are taking our rights but instead of losing the whole rights at least you will lose part of it. This is called according to Informant SD2 the act consequences.

Common goals: Focusing on the common goal is the third sub-principle that designates the principle of flexibility in

negotiations that emerged from the data of this research. According to Informant A12 it means “if you want to negotiate don’t compete the other party or just to win the other party but you have to try to work together and you have to focus on the common objective”. From the same view, Informant A11 noted that normally, we negotiate when we want to achieve a certain things which the other party may have their own expectations on it. So, when there is some kind of mismatch between the counterparts wish. Then the negotiation comes in order to provide a common outcome where both of them would agree. For that reason, Informant A7 claimed that is what the negotiation about in general. When he said:

“If I will identify it, I will say; two people or two contracting parties trying to reach a middle ground, that is negotiation in general” (Informant A7)

In the same context, Informant A13 reiterated that in the Shariah-complaint negotiation the negotiated parties is always should focus on the common interest, so both parties will get benefited and both will be happy. That is because according to Informant M1, “In the Shariah-complaint negotiation we must have the spirit of understanding, not the spirit of intolerance to reach a common ground”. That will not be achieved unless you have to separate yourself from the problem. Thus, focusing on the collective or the goal is the main pillar of reaching the common ground between the negotiated parties (Informant A12). Yet, common ground here is does not mean a state of having the same information and objectives. Rather, it refers to a process of communicating, updating and repairing mutual understandings. Hence, common ground is a very important it permits negotiators to use shortened forms of communication and still be reasonably assertive that potentially ambiguous messages and signals will be understood (Klein *et al.*, 2005).

To sum up the view of these three sub-principles that directed the flexibility among the main principles of the Shariah-complaint negotiation, Informant P17 clarified that the negotiation form the Islamic perspective is the most flexible dispute resolution. Therefore, Informant of this research identified that negotiations cannot be flexible unless the negotiated parties will have the spirit of tolerance and to have it they give some concession in order to reach a common goals or objectives.

Knowledge: The findings of this study also show that knowledge is among the main principles of the Shariah-complaint negotiation. Knowledge may consist of information’s about the negotiated parties, the

fundamental issues or the outcomes of decisions and interests that may affect the decision outcome (Stuhlmacher and Champagne, 2000). Therefore, Informant SD2 emphasized on this principle and considered it as the core principle for the negotiation process. He noted that the issue of knowledge in the Shariah-complaint negotiation is very essential. That is because in Islam the first verse revealed is “IQRA”. So, if you are not aware about negotiation issues you should not negotiate. Similarly, Informant SD18 justified his claim by pointing out a practical example when he said, “Basically, we are in the Islamic banking and Finance institution, the staff who do the sale and marketing, first they have to have enough knowledge about the product and the client then they negotiate”.

In line with this point of view, Informant A8 stressed that “from the Islamic perspective the information is very important and then it must be shared equal. Because our concept is always being fair; Fairness here means Musharakah (Sharing)”. Thus, the more information shared, the more quickly negotiated parties are likely to determine favorable resolutions and the more efficient will be the outcome process (Butler, 1999). However, based on the thematic analysis this principle has three sub-principles as presented in Fig. 6 which they are explored.

Accurate information: Obtaining the accurate information is the first sub-principle for the knowledge principle of negotiation as evidentially emerged thematically from this study. Some Informant of this study seriously discussed this sub-principle because of its relation with decisions outcomes. That what was the concern of Informant SD4 when he said:

“Well, you know that decisions are made based on the information, if you have not enough and accurate information your decision will not be accurate and most of the disputes are coming because of hiding some of the information, not enough disclosed” (Informant SD4)

Therefore, Informant SD18 stated that in the Shariah-complaint negotiation only the accurate information should be discussed. That is because according to Informant M1 it is related with another Sub-principle which is the truth. He requested that in our organization we must know the truth about the subject matter by getting all information about the negotiated issue and then we can say our decision. In the same opinion, Informant A8 discussed his experience in the banking organizations he confirmed the importance of this

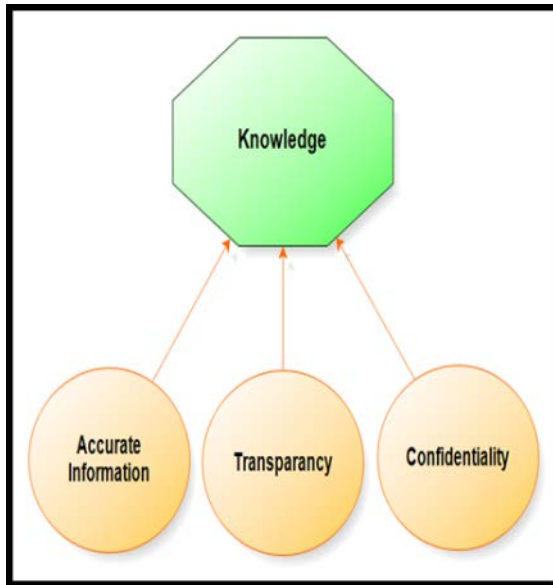


Fig. 6: Knowledge sub-principle

sub-principle when he shared that “Normally, the customer is the victim to the banks. This is because the customer has a little information but the bank has the very superior.

To sum it all, absolutely having accurate information during and after negotiations is equally crucial to the above principles. Without good and accurate information’s, the negotiated parties may not stay open to mutually beneficial agreements, or may allow negotiations to falter without good reason.

Transparency: Besides the sub-principle accurate information the evidences of this study showed that transparency is the second sub-principle for the knowledge principle of the Shariah-complaint negotiation. The literature showed that this sub-principle has several concepts all of them agreed that transparency is about information. First, transparency is understood as a critical component of knowledge sharing because the increased transparency brings increased awareness, unity and clarity to the exchanged information between two the negotiated parties. Additionally, according to Jordan *et al.* (2000) increased transparency is achieved only through the disclosure of timely and accurate information.

In congruent with literature, informants of this study considered transparency as a core sub-principle of knowledge which has great effect on the negotiation outcome. For that reason, Informant SD15 noted that “in the Shariah-complaint negotiation whatever you discuss or negotiate must be transparent”. While, Informant SD18

further expressed that the less transparent of the negotiated issue information’s will mislead the parties to insufficient outcome. For example, in business the Shariah-complaint negotiation doesn’t allow to mislead your customer. Thus, according to Informant SD4 “here, we are talking about the obligation of the parties must be honored and spell out transparently.”

In affirmation of the scholars’ conclusion that individual’s sense of the degree to which their objectives are readily apparent to others should have consequences for their decisions and communication effort in negotiation. Consequently, Information transparency is defined as the degree of visibility and accessibility of information. Similarly, Informant M1 summed up that the correct understanding of the main issues is based on the transparency of the information about the negotiated matter. So, if we want a successful negotiation, we should provide the transparent and enough knowledge about the negotiated matter.

Confidentiality: The data of this research evidentially exposed that the knowledge third sub-principle is confidentiality. Islam gives preference to confidentiality because it is a very essential in all aspects of human life. Confidentiality is a set of rules or a promise that limits access to certain types of information (Ullah and Anwarii, 2014). Informant SD4 is the only informant focused on this sub-principle very much especially in institutional and national negotiated issues. Confidentiality is so important for maintaining good relationships between the negotiated parties also it is a sign of honesty that increases trust among them.

Overall, Islam is very concern about organizational and individual information confidentiality. That is because having access to others confidential information is not an absolute blessing, it has a significant risks. For that reason, Mawardi (1981) noted that confidentiality is those strength of a man when he can keep others personal information’s from disclosing and effectively achieve that.

Relationship: The Islamic literature certified that negotiation in Islam occurs at a variety of different levels within different purposes that appear according to the need to negotiate (chapter3). Among the most vital objectives is to maintain good neighborly relationships and to exchange other essential interests with other nations (Zuhaili, 2003; Youssefvand, 2012). Therefore, relationship distinctly emerged from this study data thematic analysis as the last main principle for the Shariah-complaint negotiation.

This principle is very important in the Shariah-complaint negotiation because it has a direct impact on

the how quickly the negotiated parties reach an effective agreement. In line with this view Informant A10 stressed that “when we negotiate what we want to achieve? The first it should be in the sake of Allah (SWT) and then we want to ensure justice and peace which will results to enhance the brotherhood”. Rather than that, if negotiation in Islam is a technique that poses developing harmony and peace among Muslim communities and others, it is also according to Informant A12 and A13 simplifies the process of solving the differences between the negotiated parties that preserve and maintain their relationships.

Negotiation in Islam is a platform that cherishes human relationship therefore negotiation becomes a foundation refer to number of factors which reduces the gap among differences of arguments among Muslim communities (Rafida *et al.*, 2012). For that reason, Informant SD2 argued that “We are human being we have different intellectual and mentality, even a different commitment towards Allah. So, negotiation is the best way to get your full rights peacefully”. However, following the flow of this thought, the Fig. 7 is showing that the analysis of this study indicated two sub-principles of this principle.

Building trust: Trust in here is the factor in how people work together, listen to one another and build actual relationships. It is a main principle to build good relationships, at both personal and professional level. Therefore, it is the first sub-principle that emerged from this study data finding for maintaining the relationship in the Shariah-complaint negotiation. Informant A12 confirmed that trust is very important in the Shariah-complaint negotiation and without winning the trust of the negotiated parties’ negotiation will not succeed. That is because according to Norunnajjah and Cemil in Islam, trust is a origin part for human relationship. Allah (SWT) says in Surat Al-Munenoon:

“Those who are faithfully true to their Amanat (all the duties which Allah has ordained, honesty, moral responsibility and trusts etc.) and to their covenants” (Surat Al-Munenoon 23:8)

In this verse Allah (SWT) defined believers as ones who uphold their trust and covenant therefore it is important to sustain trust as a virtue. Allah (SWT) commands them to live keeping in relationship to one another in any level. It is included the public and private trust as well as the covenant they undertake in all the issues related to their public and private live. Similarly, Informant SD18 argued that trust is the basic principle of the relationship in negotiations which it must be

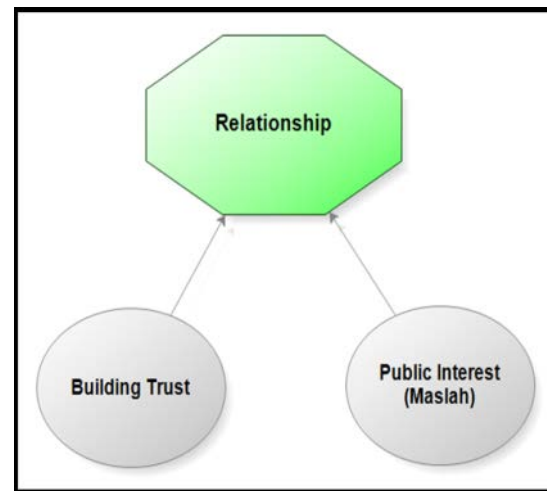


Fig. 7: Relationship sub-principle

founded on. In line with this view, Informant M1 stressed that building a mutual trust between the negotiated parties has a direct effect on reaching a common ground between them which will result at the end by gaining a mutual solution. Consistently, Informants SD4 and SD14 gave much attention to this sub-principle for the reason that building trust is the grounds of all good relationships.

Thus, trust in negotiation must be preserved as precious principle. That is because, building it may take a long time but at the same time it could be break down easily by a single action of misunderstanding.

Maslahah (Public Interest): Maslahah is the second sub-principle also emerged from this study data finding for maintaining the relationship in the Shariah-complaint negotiation. Maslahah is one of the aims for the foundation of Maqasid Shari'ah, where Maslahah line up the needs of the public and its effects (Elvan *et al.*, 2014). Literally, it means seeking benefit or interest and preventing harm (Dusuki and Abdullah, 2007; Elvan *et al.*, 2014).

Maslahah in the Shariah-complaint negotiation context has the same thought, Informant A10 viewed that; “the word “Maslahah” means interest and it could be specific interest to the parties or it could be social or public interest. Also, it could be an interest for them here and hereafter. So, this all should be taken into consideration in the Shariah-complaint negotiation”. Scholars assert that the above identification is related to and profoundly rooted in the Shariah objectives to ensure that society’s interests are preserved in the best way both in this world and in the Hereafter (Dusuki and Abdullah, 2007).

However, Informant A10 certified that Maslahah principle is the most important thing in any negotiation or deals, it should be taken into consideration since it is very fundamental. That is because, Maslahah is a principle that concerns the subsistence of human life (Dusuki and Abdullah, 2007). Indeed it is an essential sub-principle for building or maintaining the negotiated parties or individual's relationships.

CONCLUSION

This study has provided large amount of valued insight into comprehension about negotiation from an Islamic perspective. It has significantly contributed to determine the principles of the Shariah-complaint negotiation. However, in this study the exploration of those principles generally recommends that, negotiations from the Islamic view are based on the religious value system which is relied on the above discussed principles. Therefore, the Islamic organizations must conduct their negotiations or dealings by taking into their consideration those principles to make it a Shariah complaint. And so, they have to realize it and make necessary to implement them to accomplish the best results of their negotiations here and hereafter. That absolutely will lead to the spiritual satisfaction which at the end of the day is the factor which they looking for.

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